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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,054	11/18/2003	Jianhua Fan		4271

7590 06/11/2004
Jianhua Fan
5800 Maudina Ave. C-2
Nashville, TN 37209

EXAMINER

VALENTI, ANDREA M

ART UNIT PAPER NUMBER

3643

DATE MAILED: 06/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/716,054

Applicant(s)

FAN, JIANHUA

Examiner

Andrea M. Valenti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The abstract of the disclosure is objected to because

Line 5, 'tunnel may be vary and may extending' should be --tunnel may vary and my extend--

Line 6, 'chennel' should be --channel--

Last line, 'inside of building' should be --inside of a building--

Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities:

Page 1, last line, 'thire' should be --their--

Page 1, the last four sentences appear to have poor grammatical presentation and are confusing.

Page 6, third paragraph, line 7, 'can be vary' should be --can vary--

Page 6, second to last line and last line, 'chennel' should be --channel--

Page 7, third line, 'may be vary' should be --may vary--

Appropriate correction is required.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the **tray** of claims 10 and 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 5, 7, 9, and 11 are objected to because of the following informalities:

Claim 5 should be --wherein two aeration tunnels are cross connected--

Claim 7 should be --wherein two aeration rectangular aeration tunnels are cross connected--

Claim 9, 'chennel' should be --channel--

Claim 11, last line, 'tunnel can be vary' should be --tunnel can vary--

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 3,830,015 to Belgiorno.

Regarding Claim 1, Belgiorno teaches an aerated plant pot with a plant pot; the plant pot having a side wall and a bottom wall (#41), a plurality of holes/slots disposed on the bottom wall (Fig. 29 and 26); and at least one aeration tunnel (#40 and Col. 2 line 3) extending upwardly from the bottom wall of the plant pot, the aeration tunnel having

at least one side wall, a top wall, a plurality of slots/holes disposed on the side wall and the top wall.

Regarding Claim 2, Belgiorno teaches the at least one aeration tunnel is in cone shape (Fig. 1).

Regarding Claim 3, Belgiorno teaches the at least one aeration tunnel is in prism shape (Fig. 15).

Regarding Claim 4, Belgiorno teaches the at least one aeration tunnel is in rectangle shape (Fig. 8).

Regarding Claim 5, Belgiorno teaches two aeration tunnels cross connected (Fig. 8).

Regarding Claim 6, Belgiorno teaches the aeration tunnels extend to the side wall of the plant pot and without end walls (Fig. 15).

Regarding Claim 7, Belgiorno teaches two rectangle aeration tunnels cross connected (Fig. 8).

Regarding Claim 8, Belgiorno teaches the aeration tunnels extending to the side wall of the plant pot without end walls (Fig. 8 and 15).

Regarding Claim 9, Belgiorno teaches at least one air channel formed on the bottom wall of the pot (#40).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,830,015 to Belgiorino in view of U.S. Patent Pub. US 2004/001970 to Baumann.

Regarding Claims 10 and 11, Belgiorino teaches at least one leg extending downwardly from the bottom wall of the pot (Belgiorino Fig. 28), but is silent on a tray for reserving drain water while the pot is used inside of buildings. However, Baumann teaches a tray used in conjunction with a pot containing and aerating tunnel (Baumann Fig. 1 #7 and 8). It would have been obvious to one of ordinary skill in the art to modify the teachings of the invention at the time of the invention since it is old and notoriously well-known in the art to use a tray with a plant pot to collect drained water and to prevent damage to the resting surface of the pot.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,040,330; German Patent DE 3737448 A1; U.S. Patent D450,011; U.S. Patent No. 6,131,334; U.S. Patent Pub. US 2003/0106262; U.S. Patent Pub. US 2002/0174599; U.S. Patent Pub. US 2002/0017058; U.S. Patent No. 6,729,070; U.S. Patent No. 5,644,868; U.S. Patent No. 5,581,936; U.S. Patent No. 3,987,584.

The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in

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such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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Alexandria, VA 22313-1450

on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

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I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)_____ - _____ on _____.
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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

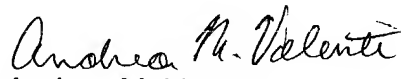
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-

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3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Andrea M. Valenti
Examiner
Art Unit 3643

27 May 2004


Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600